

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

MARTY ROBERT KNIEF,

Plaintiff,

vs.

CIV NO. 02-0975 ELM/WWD

ELIZABETH BECKY PARAZZI,  
TAOS COUNTY BOARD OF COUNTY COMMISSIONERS,  
SAN MIGUEL DETENTION FACILITY, TAOS COUNTY  
CLERK, Jannett Rael, Paul Maes, LAS VEGAS COUNTY CLERK,  
John Doe, San Miguel Detention Center Guard,

Defendants.

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** comes before me on a Motion for Dismissal and a Request for an Order of Dismissal by the San Miguel Defendants - the San Miguel County Detention Facility, the Las Vegas County Clerk and John Doe, the San Miguel Detention Center Guard. Having reviewed the Motion and Request for Dismissal, I find that the San Miguel County Defendants are entitled to an Order of Dismissal pursuant to D.N.M. Local Rule 7.1 (b). Therefore this action is dismissed with prejudice against the San Miguel Defendants.


Plaintiff originally filed his Complaint in the Eighth Judicial District Court, County of Taos, State of New Mexico on July 22, 2002 against two sets of Defendants, the Taos Defendants and the San Miguel Defendants. Since the Complaint alleged violations of the Plaintiff's

constitutional rights, the Taos Defendants - Rebecca Parraz, the Taos County Board of County Commissioners and Janette Rael, the Taos County Clerk, removed this action to the United States District Court. On August 22, 2002, the San Miguel Defendants filed a Motion to Dismiss the Plaintiff's claims against them pursuant to Fed. R. Civ. P. 12 (b)(6). It was served by mail on Plaintiff's counsel the same day. To date Plaintiff has not responded to the Motion to Dismiss or asked for an extension of time.

United States District of New Mexico Local Civil Rule 7.6 requires that a response to a written motion must be served within fourteen (14) calendar days after service of the response. In conjunction with Fed. R. Civ. P. 6 (e), Plaintiff had an additional three (3) days because service on him was accomplished by mail. Plaintiff's Response to the Motion to Dismiss was due by September 9, 2002.

United States District of New Mexico Local Civil Rule 7.1 (b) states that "the failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion." Plaintiff has failed to file and serve his response to the Motion to Dismiss within the time prescribed. Therefore, the San Miguel Defendants are granted their Motion to Dismiss.

IT IS HEREBY ORDERED that the Motion to Dismiss the San Miguel Defendants - the San Miguel County Detention Facility, the Las Vegas County Clerk and John Doe, the San Miguel Detention Center Guard - is GRANTED. The San Miguel Defendants are DISMISSED from this lawsuit with prejudice.



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SENIOR UNITED STATES JUDGE